

**BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA**

INQUIRY CONCERNING
A JUDGE
NO. 00-143

Supreme Court Case No.: SC00-2226

**OBJECTION, MOTION FOR PROTECTIVE ORDER AND
MOTION TO QUASH**

Respondent, Judge Cynthia A. Holloway, by and through her undersigned counsel, hereby files her Objection, Motion for Protective Order and Motion to Quash with regard to the Subpoena Duces Tecum without Deposition purportedly served on or about September 10, 2001 relative to the above-referenced matter. In support of this Objection and Motions, Respondent says as follows:

1. Via facsimile transmission on September 10, 2001, counsel for Judge Cynthia A. Holloway received a Subpoena Duces Tecum without Deposition requesting certain information. Said Subpoena is attached hereto as Exhibit "A".

2. Contemporaneously with the aforementioned subpoena, a cover letter was received purportedly explaining the request for information. Said cover letter is attached hereto as Exhibit "B".

3. This Subpoena is improper and otherwise not sanctioned by the Florida Rules of Civil Procedure or the Rules of the Judicial Qualifications Commission.

Judge Holloway is a party. There are specific rules and procedures to obtain discovery from a party. Specifically, in neither the Rules of Judicial Qualifications Commission nor the Rules of Civil Procedure is there a provision for subpoenaing a party for discovery purposes.

4. Exhibit “A” appears to represent an attempt to obtain records via a non-party production method that is inapplicable to a party.

5. Examining the scope of the purported subpoena, the Respondent objects to same in that it constitutes nothing more than a fishing expedition and is not reasonably calculated to lead to admissible evidence.

6. By way of reference, the earliest allegation of improper conduct in the Amended Notice of Formal Charges is on or about July 10, 1999 (Tree/Tate). Irrespective of this date, the aforementioned subpoena seeks telephone message books back to 1997.

7. Additionally, the last conduct charged in the Amended Notice of Formal Investigations occurred on or about August 8, 2000 (errata sheet). In spite of this, the subpoena purportedly seeks message books for a period of in excess of one year from that date.

8. Assuming the propriety of a subpoena to a party for discovery (which is disputed), service is improper insofar as same was transmitted to counsel via

facsimile transmission. At no time did counsel agree to accept process or is this manner of “service” is inappropriate for a pleading that purports to be a subpoena. To the extent necessary, same should be quashed.

WHEREFORE, the Respondent, Judge Cynthia A. Holloway, by and through her undersigned attorney, respectfully requests that her Objection be sustained, this Motion for Protective Order granted and to the extent necessary, this subpoena of the aforementioned records be quashed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail to:

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this _____ day of September, 2001.

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